

## COMMERCIAL USE AUTHORIZATIONS

Note: The National Park Service has recently finalized the development of a new, more flexible business permit called a Commercial Use Authorization to be utilized for permitting suitable commercial activities on National Park Service lands. The Commercial Use Authorization (CUA) will replace the former Incidental Business Permit.

### **Does the National Park Service consider you a commercial entity?**

Your organization is considered a commercial entity if you provide goods, services, activities, or other things to the public using National Park Service (NPS) lands and you receive any form of compensation for the things you provide. The NPS does distinguish between commercial and non-profit organizations. A non-profit organization is one that has been determined by the Internal Revenue Service to be exempt from federal income taxation as a nonprofit or not-for-profit organization under the terms of the Internal Revenue Code. If an organization can provide documentation that it will derive no taxable income from activities in the park, a CUA will not be required. However, a non-profit organization is required to obtain a Special Use Permit for the activity and pay any required associated cost recovery when engaging in activities on park lands.

### **What are the criteria for the Commercial Use Authorization?**

First of all, does the activity fit the park? It must be appropriate to the mission of the park, compliment resource protection, visitor protection and interpretation goals, and not pose any potential for derogation of values or purpose for which the park was established. The activities must be consistent with the park's future plans as well as present operations. They should be compatible with the planning documents for the park.

The park will not normally limit the number of organizations that offer similar services or activities. However, the Superintendent will not issue more CUAs than are consistent with the preservation and proper management of park resources and values. If the demand for the activity is overwhelming, the NPS may establish controls. Some examples of controls include designation of areas for commercial use, or establishment of area carrying capacities or a reservation system. If needed, the NPS may also establish procedures to assure a balance between commercial and non-commercial use. Additionally, the park cannot guarantee that park facilities will be available every day for every CUA holder and may establish group size limitations.

### **Types of CUAs.**

In-park services refers to an operation with annual gross receipts of not more than \$25,000 from commercial services originating and provided solely within a park area.

Out-of-park services refers to the incidental use of park area resources by operations that provide commercial services originating and terminating outside of the park area. A CUA of this type does not authorize solicitation of customers, sales or payment for commercial services to take place within the park area – all of these activities must occur outside of the park area. Unlike a CUA for in-park services, there is no cap on the annual gross receipts that may be generated by the authorized services under an out-of-park CUA. Compensation or payment for services (even tipping) may not occur on NPS lands.

CUAs do not authorize the construction of structures on NPS lands, either temporary or permanent.

### **What costs are involved?**

The cost for issuing a Commercial Use Authorization is \$200.00, and the authorization in effect for one year. Short-term CUAs are available for a four-month period at a cost of \$50.00.

If the NPS incurs costs as a result of the authorized activities, the CUA holder is held responsible for reimbursement of those costs. For group use or special events, the CUA holder pays the same application/administrative charge and monitoring costs as other event permittees.

If the activity has a potential for resource disturbance or damage, the NPS may require CUA holder to post a refundable performance bond. The bond is set at an amount adequate to cover the cost of cleanup or repair of damage to resources, including personnel or contract costs. At the end of the authorization year, the bond is returned if it was not needed.

**What is involved in the CUA?**

Each Commercial Use Authorization includes the following provisions:

Copy of Certificate of Liability Insurance coverage is required with the United States of America named as Additionally Insured.

The CUA holder must meet all state, county and local agency requirements for permits, licenses and business operations. All food and beverage services must meet public health standards.

IRS taxpayer identification number for the CUA holder/organization is required to be provided on the CUA application.

The NPS requires prior approval of advertising for activities that occur on park lands. The CUA holder shall not use advertising that attempts to portray them as agents of the NPS, or to use NPS symbols, seals, or other items of identity.

Commercial advertising is prohibited on park lands, including hanging or posting signs, banners and flyers.

The organization/CUA holder will provide the superintendent a statement of its monthly gross receipts, visitor use statistics and resource impact assessments. Go to [www.nps.gov/neri/](http://www.nps.gov/neri/) to print the reporting form.

NPS will designate an individual to whom the CUA holder will report any accidents, injuries or damages related to the authorization. The NPS liaison will be the individual providing the CUA holder with NPS emergency or site closure information.

The CUA holder will provide a method for NPS field personnel to quickly and easily identify the CUA holder's staff when on NPS property.

Some activities must be scheduled in advance to avoid conflict with other park uses.

The CUA will indicate the areas of the park in which the CUA holder may conduct activities and the types of activities covered in the CUA.

**What activities may be permitted under a Commercial Use Authorization?**

Rock climbing services.  
Bicycle rentals and tours.  
Hiking tours.  
Horseback riding services.  
Tours.

**Where can I get more information?**

Contact the office of the Program Specialist for Commercial/Special Park Uses at 304- 465- 6517 to request a Commercial Use Authorization application or go to [www.nps.gov/neri/](http://www.nps.gov/neri/) to print the Commercial Use Authorization application form.

## SPECIAL USE PERMITS

Special events range from company picnics and family reunions to weddings, races/marathons, filming, demos/training and reserved group camping.

### **How do I schedule my event or activity?**

The parks accommodate both regular park visitors and special events or group activities at the same time, thereby avoiding the scheduling of more than one event per day for each site with the exception of group climbing. Most events and activities are scheduled during daytime hours with the exception of group camping and some races/marathons. Please contact us as far in advance as possible. Requests are taken first come, first served. To inquire about the necessity for a Special Use Permit or to reserve a date for your event, contact the office of the Program Specialist for Commercial/Special Park Uses at 304- 465- 6517.

### **What costs are involved?**

The authority for the NPS to recover and retain costs associated with managing special park uses is found at 16 U.S.C. 3a. The NPS is required to recover all costs related to special park use permits (31 U.S.C. 9701). Recoverable costs include site preparation, use, restoration costs, utility costs, event personnel costs and supplies and materials. The NPS is also required to recover the costs of administering the permit, providing planning assistance and costs associated with preliminary consideration of proposed events.

The event producer/sponsor may be required to post a bond to assure compliance with permit conditions as well as site restoration and clean- up after the event. The bond is refundable if all permit conditions are met.

The cost for using an NPS site varies with the complexity of the activity. Factors include the number of people involved, whether there will be food and beverage service, and the amount of time you will be on- site, including deliveries and pick- ups, preparation and clean- up. You can get a rough estimate of the costs by describing the event to our Program Specialist and completing an Application for Special Use Permit with the details of your proposed event. Exact costs will be calculated based on your application. Modifications to your plans may impact the permit costs.

When you submit your written application, you will pay a non- refundable application/administrative charge. The cost recovery/monitoring charge is due prior to approval of the permit. If any additional costs are incurred or if you fail to complete clean- up after the event, you will be billed at the conclusion of the event. Go to [www.nps.gov/neri/](http://www.nps.gov/neri/) to print the Special Use Permit application form.

### **What are some events that may require a Special Use Permit?**

- Climbing at designated climbing areas for non- commercial groups of 10 or more
- Hiking at designated hiking areas for non- commercial groups of 10 or more
- Biking at designated biking areas for non- commercial groups of 10 or more
- Horseback riding on designated horse trails for non- commercial groups of 10 or more
- Tours in areas of the parks for non- commercial groups of 10 or more
- Group camping at Burnwood or Dunglen
- Picnic shelter reservations at Burnwood, Dunglen and Grandview
- Events which involve staging support personnel along the route
- Events which charge a fee for participation (subject to a Commercial Use Authorization)
- Demos/training sessions (land and water- based)
- Races and/or marathons (land and water- based)
- Weddings
- First Amendment activities
- Agricultural Use
- Rights- of- Way

Examples of some activities for which a Special Use Permit is required include, but are not limited to, the following along with the designated Application/Administrative Charge:

<u>Activity</u>	<u>Application/Administrative Charge</u>
Group Climbing (non- commercial)	\$50.00/four months
Group Hiking (non- commercial)	\$50.00/four months
Group Biking (non- commercial)	\$50.00/four months
Group Horse Packing (non- commercial)	\$50.00/four months
Group Tours (non- commercial)	\$50.00/four months
Group Camping (Dunglen and Burnwood)	\$50.00/night – includes pavilion/shelter
Wedding	\$50.00
Race/Marathon	\$100.00
Public Assembly (non- First Amendment)	\$50.00/day
Filming/Photography	\$100.00
Demo/Training	\$50.00/day
First Amendment Activity	\$0.00
Memorial/Scatter Ashes	\$0.00
Shelter Reservation (Dunglen and Burnwood)	\$50.00/day
Shelter Reservation (Grandview)*	\$70.00/day for Shelter #1 and #3 \$75.00/day for Shelter #2 and #4 \$90.00/day for Playground shelter

In addition, the Park is required to recover any operational costs caused by your activity once the permit has been issued. Costs will be charged at the rate of \$40.00 per hour per employee if monitoring of your event is determined to be necessary.

Groups must schedule each event in advance by contacting our Program Specialist at 304- 465- 6517.

\*For shelter reservations and weddings at Grandview, please contact our Grandview Shelter Reservationist at 304- 465- 8064. For shelter reservations at Burnwood or Dunglen, please contact our Program Specialist at 304- 465- 6517.

Please note some restrictions apply to wedding ceremonies at overlook areas of the parks. Wedding ceremonies must not interfere with normal visitation of the overlooks, and park visitors can not be denied access during the ceremony. With the exception of the North Grandview Overlook, wedding ceremonies will be limited to a total of 25 participants, including the wedding party, for a maximum of 30 minutes for the ceremony and photographs. At the North Grandview Overlook, wedding ceremonies will be limited to a total of 15 participants for a maximum of 30 minutes. During high visitation times from April 1 through October 31, it may be a requirement to schedule wedding ceremonies at overlooks to occur before 11:00 AM. Decorations are not allowed, and the showering of the wedding couple with rice, birdseed, confetti, and bubbles are prohibited, as well as the release of balloons or birds.

### **How is a site and date reserved?**

First, visit the parks to see which site meets your needs. Then call the office of the Program Specialist for Commercial/Special Park Uses at 304- 465- 6517 to see if the site is available for your preferred date. If it is and your activity is an appropriate activity to occur on park lands, we will send you the application and hold the date for 15 working days to allow you time to complete the application and send it to us along with the non- refundable application/administrative charge. If the application and administrative charge are not returned within 15 work days (three weeks), the site and date are released. Go to [www.nps.gov/neri/](http://www.nps.gov/neri/) to print the Special Use Permit application form.

Based on the information in your application, we will write the permit and calculate the cost recovery permit costs. You will have 10 working days (two weeks) to review and sign the permit and return it, along with the balance of the permit costs (additional administrative and/or monitoring charges). Once we have received the signed permit, we will return the approved original to you.

Approximately two weeks before the actual event, you should contact the Program Specialist at 304- 465- 6517 for a pre-event review. If you have made modifications in your event plans, we will review the permit and cost calculation and make any needed adjustments.

### **Are there any other requirements?**

Some events require liability insurance from your own insurance company. The amount, like the cost, is related to the complexity of the event. For family events, the liability insurance can be based on homeowner's (not renter's) insurance. We will provide you with information for your insurance agent.

The permittee must meet all state, county and local agency requirements for permits, licenses and business operations. All food and beverage service must meet public health standards.

IRS taxpayer identification number for the permittee/organization is required to be provided on the permit application. The NPS requires prior approval of advertising for events that occur on NPS lands. The permittee shall not use advertising that attempts to portray them as agents of the National Park Service, or to use NPS symbols, seals, or other items of identity.

You are expected to provide event staff to make your event run smoothly without interfering with other park visitors. You will need to designate event staff for site clean-up and dispose of all trash in receptacles or dumpsters. You may also need to designate an individual to monitoring event parking.

Depending on the complexity of your event, we may assign an NPS monitor to be on-site during your event.

### **Are alcoholic beverages allowed?**

Alcoholic beverages are prohibited for most activities under Special Use Permit. Please contact our Program Specialist at 304-465-6517 to determine if alcoholic beverages are allowed. Alcoholic beverages are prohibited at the Dungen, Stone Cliff and Grandview areas of New River Gorge National River.

### **What is not allowed at special events or group activities?**

Commercial advertising is prohibited, including hanging or posting signs, banners and flyers  
 Cutting, destroying, digging, removing or possessing any tree, shrub, or other plant  
 Loud audio devices and fireworks  
 Helium or water balloons  
 Wading pools or dunk tanks  
 Mechanical rides or petting zoos  
 Activities or games that involve food such as egg toss, throwing rice or birdseed  
 Any form of gambling or gambling devices (including raffles or lotteries)  
 Firearms or weapons  
 Open fires unless in designated fire ring  
 Affixing anything to trees, bushes or structures

Any proposed sales on park lands during special events is subject to the issuance of a Commercial Use Authorization.

### **Are permits required for festivals and/or fundraisers?**

Yes, and the festival must be open to the public and have a central theme or goal related to park values. The event may include a mixture of entertainment, food, activities, and informational booths. Although a festival may be sponsored by a non-profit organization, there may be commercial elements to the event, such as entrance fee, participation fees, sale of food and beverages, or sale of festival-related items, which are subject to the issuance of a Commercial Use Authorization. Events which are held strictly for profit or do not relate to NPS values and purposes are not appropriate to be held inside the park.

It is important that the site selected for a festival is appropriate for the level and type of activities. Park areas may not be closed to other visitors during festivals or fundraisers. Trails and other facilities will remain open. The collection of fees associated with the event is prohibited on park lands.

### **Are permits required for First Amendment activities?**

Yes. Freedom of speech, press, religion, and assembly are rights protected by the First Amendment of the Constitution of the United States. People may exercise these rights in national parks, but the NPS still retains its responsibility to protect park resources and prevent conflict among park visitors. Therefore, the NPS establishes guidelines for setting the time, place and manner (number of participants, use of facilities and type of equipment) for the events to occur.

By law, the NPS has established places in parks where First Amendment activities can be accommodated. These areas are visible to the general visiting public without interfering with the public's enjoyment of the park. These areas are identified in the Superintendent's Compendium.

While the NPS regulates aspects of the activity to protect park resources, it never regulates the content of the message. Permits are issued for First Amendment activities, but there are no costs, and no insurance is required for the activities. All requests for similar activities are treated equally. As long as permit criteria and requirements are met, no group wishing to assemble lawfully will be discriminated against or denied the right of assembly.

Types of First Amendment activities may include:

- Religious services or ceremonies
- Press conferences
- Press coverage of breaking news
- Voter registration
- Collecting signatures on petitions or voter initiatives
- Public demonstrations, picketing, assembly or rally for expressing opinion and view
- Sale or distribution of printed material related to free expression of opinion

Types of activities that are NOT covered by the First Amendment:

- Church picnic or social gathering
- Wedding ceremonies or receptions
- Political fundraiser or other invitation- only political activity or event
- Solicitation of donations
- Community parades, athletics or sporting events
- Sale of message- bearing clothing, arts and crafts, or similar merchandise

Some of these activities can be accommodated through a Special Use Permit for which cost recovery may be charged.

### **When is a filming permit required?**

Photography of scenery has traditionally been part of a visit to a national park. Photography does not require a permit if it involves only hand- carried equipment (tripod, interchangeable lenses, flash), and does not involve product or service advertisement or use of models, props or sets. Normally this type of photography occurs in areas of the park where the public normally goes and does not interfere with other visitors. Photography/filming coverage of breaking news does not require a permit as long as it does not involve advertising and sets. Although a permit is not required for breaking news coverage, the film crew may not disrupt park visitors, damage park resources or compromise public health and safety regulations.

A Special Use Permit for filming is required when:

- A product or service advertisement is involved.
- Models, props or sets are involved.

- The project has the potential to disrupt other park activities or visitors (more than 10 participants, will occur longer than four hours in areas normally available to the public, or involves more than just hand- carried equipment).

- The project requires access to an area normally closed to general public use, or access into an area outside of normal public use hours, or poses a potential risk to park resources.

If you are uncertain whether your project requires a permit or not, contact our Program Specialist at 304- 465- 6517 for additional information. If you already know that your project does not require a permit, please call the office to check the

permit schedule in order to avoid conflicts with other activities. If your project does require a permit, please contact the Program Specialist as far in advance as possible to request and complete a film permit application. Go to [www.nps.gov/neri/](http://www.nps.gov/neri/) for printing the Film Permit application form. Liability insurance will be required with the United States of America named as Additional Insured.

Frequently, there are opportunities for news organizations to focus on park programs or increase public awareness of park-specific programs. Filming related to these stories can be coordinated and planned in advance. A permit will be issued, but if the park benefits from the increased public awareness, the Superintendent may choose to reduce or waive costs associated with the permit. Film or video documentaries or instructional projects may be allowed through the permit system.

The NPS can provide an on-camera spokesperson if the person is depicted performing normal duties or serving as a subject matter expert, the appearance supports NPS goals and benefits the NPS. The spokesperson is selected by the NPS, and the role is not scripted by the production company (question and answer format is OK). The production company reimburses the park for the spokesperson's salary for the time spent on the project, both preparing and researching for the appearance and for the time spent filming. If the project and the appearance of the NPS person substantially benefit the park or the agency, the Superintendent may choose to provide the spokesperson at no additional charge.

Frequently, portrait photographers like to use park sites as an alternative to a studio setting for informal portrait photography. Please contact the Program Specialist at 304- 465- 6517 to discuss permit requirements for this activity.